

Advisory Committee on Acoustic Impacts on Marine Mammals

PROPOSED OPERATING PROCEDURES

For any voluntary collaborative forum to operate smoothly, it is helpful for those involved to agree at the outset on the purpose for the process and on the procedures by which the group will govern its discussions, deliberations, and decision-making. These draft procedures will be reviewed, discussed, revised and adopted by the Advisory Committee at its first meeting.

1. PURPOSE AND GOAL FOR THE ADVISORY COMMITTEE

The Omnibus Appropriations Act of 2003 (Act), Public Law 108-7, directed the Marine Mammal Commission (Commission) to “fund an international conference or series of conferences to share findings, survey acoustic ‘threats’ to marine mammals, and develop means of reducing those threats while maintaining the oceans as a global highway of international commerce.” [Suggestion was made to add language expanding the list of ocean activities to be maintained. The Commission will draft language for consideration at April meeting. Others also are welcome to do so.] To assist in meeting this directive, the Commission establishes the Advisory Committee on Acoustic Impacts on Marine Mammal (Committee), under the Federal Advisory Committee Act, to:

- 1) Review and evaluate available information on the impacts of human-generated sound on marine mammals, marine mammal populations, and other components of the marine environment,
- 2) Identify areas of general scientific agreement and areas of uncertainty or disagreement related to such impacts,
- 3) Identify research needs and make recommendations concerning priorities for research in critical areas to resolve uncertainties or disagreements, and
- 4) Recommend management actions and strategies to help avoid and mitigate possible adverse effects of anthropogenic sounds on marine mammals and other components of the marine environment.

The Committee’s charge is to develop recommendations to the Commission for inclusion in a report to Congress from the Commission. The Commission asks the Committee to develop as much consensus on these recommendations as is achievable. On issues where the Committee does not or cannot reach consensus, this will be noted and the Commission may develop, if it so chooses, its own recommendations to Congress on those issues.

2. STRUCTURE OF THE COMMITTEE

Plenary Advisory Committee: The Advisory Committee will consist of those members appointed by the Commission. The full Committee will be the decision-making forum for the Committee. The Commission will have two members on the Committee.

Subcommittees: The Committee may establish subcommittees to assist it in developing draft proposals or products for consideration at specific Committee meetings. The membership of subcommittees is subject to the approval of the Committee and may be drawn from individuals who are not Committee members. All subcommittees work at the direction of and report to the Committee. The Committee will develop a scope of work for each subcommittee, outlining the desired membership and expertise,

schedule, and product.

[Discussed on 2-5-04, but not finalized. Brackets indicate issue to come back to.]
Technical Resources: The Commission, [in cooperation with] the Committee, may identify technical resource experts who will be available to assist the Committee or subcommittees in exploring specific questions or topics and in preparing documents for Committee consideration. Technical experts will participate in Committee discussions only with Committee approval.

3. PARTICIPATION

Interests Represented: Committee membership is limited to those appointed by the Commission. The list of appointed members is included in Attachment A.

Responsibilities of Committee Members: Committee members are responsible for representing the views of other members in their constituency to the maximum extent feasible, and for communicating with others in their interest group. Members are responsible for ensuring that all significant issues and concerns of their organizations and constituents are fully and clearly articulated during Committee meetings. Members are also responsible for ensuring, to the maximum extent feasible, that any eventual recommendations or agreements are acceptable to their constituents and/or the agencies or organizations that they represent.

Alternates: Each member is expected to attend all meetings in their entirety. Each member can also recommend to the Commission an alternate who will, upon Commission approval, attend meetings or portions of meetings when the member is unable to fill his or her seat. The Committee does not intend for this provision to allow for the de facto representation of two members from a constituency in one seat. Alternates who attend meetings with their Committee member can address the Committee in the public comment period. It is the responsibility of the member and the alternate to communicate to ensure that there are no disruptions in the process when an alternate joins the Committee deliberations.

Participation of Those Who Are Not Committee Members: Committee members may request to hear from experts who are in the room but are not on the Committee.

Other Commitments of Members: Members are asked to:

- Share all relevant information that will assist the Committee in achieving its goals;
- Keep their organizations' decision-makers informed of potential decisions and outcomes, in order to expedite approval for the final product to the greatest extent possible;
- Resolve issues being addressed within the Committee structure, not through side bar discussions and agreements that may place other Committee members at a disadvantage;
- Refrain from characterizing the views of other Committee members, or the Committee as a whole, in any interactions with the press; and
- Support the eventual product if they have concurred in it.

Addition of Members: Additional members may join the Committee only with the agreement of the Commission and the Committee, and only if they represent an interest that is not already represented.

4. DECISION-MAKING AND COMMITMENT

Consensus: When concurrence among the members is desired, the Committee will make decisions by consensus. The Committee will use the following definition of consensus: all Committee members can live with a given recommendation or decision. Committee members are responsible for making known any areas of disagreement throughout the process. If the group cannot reach consensus, members will evaluate the consequences of their disagreement and decide together how to address the lack of agreement. The disagreements will be summarized and can become part of the Committee's report if the Committee so chooses.

Role of the Commission: The Commission will participate as full members of the Committee, engaging in the Committee on the issues and exchanging views on the topics discussed. The Commission will provide technical support to the Committee as requested, to the extent feasible. The Commission intends to use any recommendations on which there is consensus in its report to Congress. On issues where the Committee does not or cannot reach consensus, the disagreements will be described in the Committee report. The Commission will include those disagreements in its report to Congress and may develop, if it so chooses, its own recommendations to Congress on those issues.

Decision-Making Process: Decisions will be made by consensus of those present at the meeting except in the case of concurrence on major products, for which consensus and sign-off from all Committee members will be sought. Major products include draft and final Committee reports.

The following sections were not discussed at the February meeting. They will be discussed at the April meeting. The goal for the April meeting will be to agree on and finalize the complete operating procedures document.

5. SAFEGUARDS

Good Faith: All Committee members agree to act in good faith in all aspects of the Committee's operation. They further agree that specific offers made in open and frank problem-solving conversations will not be used against any other member in future litigation or public relations. Good faith requires that individuals not represent their own personal or organization's views as views of the entire Committee, and that the views and opinions they express in the Committee deliberations are consistent with the views they express in other forums.

Committee Products: The Advisory Committee will develop draft and final reports to the Commission outlining consensus recommendations and areas of disagreement. The Committee may also develop preliminary draft recommendations, chapters of its final report, and other documents that will assist the Committee in reaching consensus on a final report. All agreements on preliminary products will be considered provisional until the Committee has reached consensus or otherwise finalized its final report.

Press: All meetings of the Committee will be open to the public, and members of the press may attend. Committee members and facilitators may speak to the press, but all agree to refrain from characterizing the views of other Committee members, or

the Committee as a whole, in any interactions with the press.

6. MEETING PROCEDURES

Steering Subcommittee: If desired by the Committee, a small Process Steering Subcommittee may be formed. Decisions about meeting agendas and other Committee process issues will be made through consultation among the Commission, the facilitation team, and members of the Committee who wish to volunteer to play a Steering Subcommittee role. The Steering Subcommittee, if one is formed, will be responsible for managing the Committee's process, in coordination with the Commission and facilitators. The Steering Subcommittee must have representation from the key interest groups to bring a balanced approach to planning for the Committee's efforts.

Caucusing: Any member may request a caucus with any other member(s) at any time. The person requesting the caucus will specify who is included in the caucus and how much time is being requested. (This technique will be most useful when the Committee is working to make decisions or to finalize recommendations.)

Facilitation: The Committee meetings will be facilitated. The facilitators will not take positions on the issues before the Committee. The facilitators will work to ensure that the meetings stay on topic and that all points of view are heard during discussions. Facilitators will keep confidential information disclosed to them in confidence.

Open to the Public: Meetings of the Committee will be conducted consistent with the Federal Advisory Committee Act (FACA), and will be open to the public and announced in the *Federal Register*. Recommendations made by subcommittees will be brought to the full Committee for consideration, and will be posted on the Commission's website.

Meeting Summaries: The facilitators will develop summaries of each meeting, in consultation with the Commission. The summaries will be distributed to the Committee or appropriate subcommittee for review prior to their posting on the Commission's web site. The Committee will have ten days to provide comments and corrections.